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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/508,405	05/08/2000	PAIVI HUOVINEN	365-442P	9154

2292 7590 04/14/2003

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

RABAGO, ROBERTO

ART UNIT	PAPER NUMBER
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1713

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DATE MAILED: 04/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/508,405

Applicant(s)

HUOVINEN ET AL.

Examiner

Rob Rábago

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1713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 March 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: 13, 16, 31-38 and 41.

Claim(s) rejected: 8-12, 14, 15, 17, 20-30, 39 and 40.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


DONALD R. WILSON
PRIMARY EXAMINER

DONALD R. WILSON
PRIMARY EXAMINER

Attachment to Advisory Action

1. The proposed amendment to the claims filed 3/24/2003 will not be entered because new grounds of rejection under 35 USC 112(2) would be entered against the amended claims for at least the following reasons.

(a) Each of claims 13, 16, 35 and 38 have been amended to recite two pairs of values for the same polymer properties, and it cannot be determined whether this amendment represents redundant range-within-a-range limitations or whether additional process steps or polymer products are being included.

(b) Claim 16 has been amended to include the indefinite language "typically" and "such as". It is furthermore not understood why applicants have included both a generic and species description of the metallocene.

(c) Process claim 20 has been amended to depend from non-elected product claim 1.

(d) The clean version of amended claim 27 does not agree with the marked-up version, and therefore it cannot be determined which version contains the error.

2. Applicant's arguments filed 3/24/2003 have been fully considered but they are not persuasive. Applicant's argument sets forth several reasons why the cited reference processes and polymers are not the same as certain embodiments described in the specification, but contains nothing which would indicate that the cited reference examples are not within the broad scope of the claims. Furthermore, applicant has

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provided no traversal of the shifting of burden to show that the unreported MFR property is not inherent. Further still, applicant has provided no traversal to the portion of the rejection under 35 USC 103(a).

3. Regarding applicant's assertion that the finality of the prior rejection was improper, it is noted that the criteria noted by applicants was not relevant to the statement contained in the Office action that the new rejection was necessitated by applicants' amendment. Applicants are directed to the fact that the amendment filed 7/2/2002 broadened the claims by removing from independent claim 8 the limitation directed to a specific range of melt strength. Because the Andtjso reference did not disclose or suggest the previously claimed values of melt strength, this reference did not anticipate or render obvious the prior claims. However, upon the removal of the melt strength limitation, Andtsjo was applied under 35 USC 102 and 103. Accordingly, the Office action of 10/18/2002 was properly made final because the new rejection over Andtsjo was available only after the broadening amendment filed 7/2/2002.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rábago whose telephone number is (703) 308-4347. The examiner can normally be reached on Monday - Friday from 7:30 am - 3:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached at (703) 308-2450. The fax phone numbers for


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the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Rob Rábago
Examiner
Art Unit 1713

RR 
April 8, 2003


DONALD R. WILSON
PRIMARY EXAMINER